

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO DIVERSIFIED)	ADMINISTRATIVE
OPERATIONS OF LOCAL EXCHANGE)	CASE NO. 340
TELEPHONE COMPANIES)	

O R D E R

This matter arising upon petition of Highland Telephone Cooperative, Inc. ("Highland Telephone") filed May 6, 1992 pursuant to 807 KAR 5:001, Section 7, for confidential protection of Exhibits A and B to its response to the Commission's Order of April 6, 1992 on the grounds that disclosure of the information is likely to cause Highland Telephone competitive injury, and it appearing to this Commission as follows:

Highland Telephone is a limited partner in Tennessee RSA No. 3 Limited Partnership. The partnership was formed to make cellular telephone service available in Tennessee Rural Service Area No. 3. Exhibit A is the limited partnership agreement formed by Highland Telephone and others to provide the cellular service. Exhibit B consists of financial information and analysis concerning the limited partnership and provides the current and anticipated investment to be made in the partnership together with a financial analysis of its current and anticipated operations.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS

61.878(1). That section of the statute exempts 10 categories of information. One category exempted in subparagraph (b) of that section is commercial information confidentially disclosed to the Commission. To qualify for that exemption, it must be established that disclosure of the information is likely to cause substantial competitive harm to the party from whom the information was obtained. To satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

Under federal law, there are two cellular telephone companies in each rural service area that are authorized to provide service within that area. This ensures a competitive market in each rural service area for cellular telephone service. Therefore, each provider of such service is entitled to protect as confidential any information which its competitor could use to gain an unfair business advantage. The limited partnership agreement sought to be protected by Highland Telephone would not fall into this category.

The limited partnership agreement merely recites the terms and conditions under which the partnership was formed. While it does disclose each partner's proportionate share in the enterprise, it does not reveal the extent of their investment. Therefore, no competitive advantage can be gained from its disclosure.

Furthermore, only information which is confidential is entitled to protection. To the extent that information is available from other sources, it must be maintained for public inspection. The limited partnership agreement by its terms will be a matter of public record in Tennessee. Therefore, it is not confidential and not entitled to protection.

The financial information sought to be protected in Exhibit B provides the current and anticipated investment by the partners in the limited partnership, as well as current and anticipated profitability information concerning the cellular operations. This information could be used by the partnership's competitor to structure its rates or market its services in a manner which is detrimental to Highland Telephone. Therefore, the financial information should be protected as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The petition to protect as confidential the partnership agreement filed by Highland Telephone as Exhibit A to its response to the Commission's Order of April 6, 1992 be and is hereby denied.

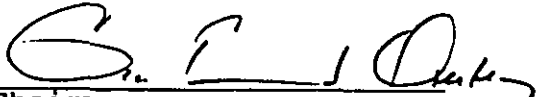
2. Exhibit A shall be maintained by this Commission as confidential and shall not be open for public inspection for a period of 20 days from the date of this Order, at the expiration of which it shall be placed in the public record.

3. The financial information contained in Exhibit B to Highland Telephone's response to the Commission's Order of April 6, 1992, which Highland Telephone has petitioned be withheld from

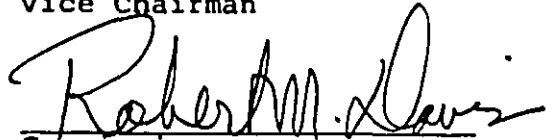
public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 15th day of June, 1992.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director, Acting